

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Policies and Rules )  
Implementing the Telephone ) CC Docket No. 93-22  
Disclosure and Dispute )  
Resolution Act )

AT&T PETITION FOR LIMITED INTERIM WAIVER  
ON AN EXPEDITED BASIS

Pursuant to Section 1.3 of the Commission's Rules,  
47 C.F.R. § 1.3, American Telephone and Telegraph Company  
("AT&T") hereby petitions for a limited, interim waiver of  
certain of the Commission's rules governing pay-per-call  
services. Specifically, AT&T requests an eight-month waiver  
of Sections 64.1509(b)(2), 64.1510(a)(2)(i)(ii), and  
64.1510(b) of the Commission's rules. These rules govern  
(i) the disclosure statements which set forth the rights and  
obligations of customers and carriers with respect to pay-  
per-call charges,<sup>1</sup> and (ii) the information and format

<sup>1</sup> All common carriers that assign telephone numbers to  
providers of interstate pay-per-call services must  
provide to all telephone subscribers, either directly or  
through contract with any LECs, a disclosure statement  
which must include certain specified information.  
Disclosure statements must be forwarded to (i) all  
telephone subscribers no later than 60 days after the  
regulations take effect; (ii) all new telephone  
subscribers no later than 60 days after new service is  
established; (iii) all telephone subscribers requesting  
service at a new location, no later than 60 days of

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requirements for all bill statements containing pay-per-call charges.<sup>2</sup>

### Factual Background

The Telephone Disclosure and Dispute Resolution Act ("TDDRA") adopted policies designed to protect "the public interest and the future development of pay-per-call technology by providing for the regulation and oversight of the applications and growth of the pay-per-call industry."<sup>3</sup> AT&T supported the rules proposed by the Commission pursuant

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service establishment; and (iv) thereafter, at least once per calendar year. 47 C.F.R. § 64.1509(b)(2).

<sup>2</sup> Each billing statement that includes charges for interstate pay-per-call services must include a statement that indicates that (i) such charges are not for telecommunications services; (ii) neither local nor long distance service can be disconnected for non-payment of these charges although an information provider may employ private entities to seek collection, (iii) 900 number blocking is available upon request; and (iv) access to pay-per-call services may be involuntarily blocked for failure to pay legitimate charges. Furthermore, the rules require that all pay-per-call charges be segregated on the bill from other charges. 47 C.F.R. § 64.1509(a)(2)(i), (ii). Carriers offering billing services to IPs providing interstate information services pursuant to a presubscription or comparable arrangement, or for interstate tariffed collect information services, shall display billing information in the same manner, to the extent possible. 47 C.F.R. § 64.1509(b).

<sup>3</sup> See, Public Law 102-556, 106 Stat. 4181, approved October 28, 1992.

to Title I of TDDRA,<sup>4</sup> just as it endorsed the Commission's earlier efforts to control industry practices in the proceedings leading up to entry of the 900 Service Order in CC Docket No. 91-65.<sup>5</sup>

To the extent that the Commission's regulations differ from current billing practices, AT&T has proceeded with all deliberate speed to initiate the billing changes necessary to allow full compliance with the rules by their effective dates.<sup>6</sup> To a great measure, AT&T relies on the billing capabilities of the LECs to provide billing for pay-per-call services because AT&T does not currently have these capabilities itself. AT&T does directly bill pay-per-call charges to business customers and certain residential customers.<sup>7</sup> AT&T has worked in concert with the LECs with

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<sup>4</sup> See, AT&T Comments, CC Docket No. 93-22, filed April 28, 1993 and RM-7990; AT&T Reply Comments, CC Docket No. 93-22 and RM-7990, filed May 4, 1993.

<sup>5</sup> See AT&T Comments, filed April 24, 1991, and AT&T Reply Comments, filed May 24, 1991, in Policies and Rules Concerning Interstate 900 Telecommunications Services, CC Docket No. 91-65; Policies and Rules Concerning Interstate 900 Telecommunications Services, Report and Order, 6 FCC Rcd. 6166 (1991) ("900 Services Order"), recon. FCC 93-88, released March 10, 1993.

<sup>6</sup> Section 64.1510 of the Commission's implementing regulations becomes effective on November 1, 1993. Section 64.1509 became effective on September 23, 1993 and requires annual disclosures to be sent to all telephone subscribers by November 23, 1993.

<sup>7</sup> AT&T directly bills pay-per-call charges to business customers and residents in West Virginia and in New

which AT&T has contracted for billing services and with its own internal billing organizations to implement all necessary billing modifications. However, these modifications require massive systems changes that cannot be implemented by the rules' effective dates.<sup>8</sup> Therefore, AT&T seeks an interim waiver to allow eight months additional time for necessary modifications to be made to the billing systems of both the LECs and AT&T.

#### ARGUMENT

The Commission may waive its rules "if good cause therefor is shown."<sup>9</sup> Good cause is shown where compliance with a regulation would impose substantial hardship to the petitioner and where deviation from the rule will not undermine the interests served by the regulation.<sup>10</sup> Such a case is presented here.

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Jersey (those that subscribe to the New Jersey Simple Savers plan).

<sup>8</sup> The specific inabilities of the various LECs and AT&T to implement these changes by the rules' effective dates are set forth in the attached affidavit of AT&T District Manager, Anne Farrington (Attachment A).

<sup>9</sup> 47 C.F.R. § 1.3.

<sup>10</sup> Wait Radio v. FCC, 418 F.2d 1153 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972); Northeast Cellular Co. v. FCC, 897 F.2d 1164 (D.C. Cir. 1990).

AT&T cannot comply with the Commission's rules without significant modifications to the billing systems of its billing suppliers, the LECs, and to its own internal billing systems. The LECs have informed AT&T that they cannot fully comply with the Commission's regulations due to substantial technical burdens which cannot be overcome by the rules' effective dates. Similarly, AT&T cannot make modifications to its own internal billing systems utilized to bill pay-per-call charges directly. A grant of AT&T's request for a limited, interim waiver would be fully consistent with prior Commission practice which recognizes hardship as the basis for an interim waiver. Thus, the Commission has extended the effective date of new policies when necessary to avoid unnecessary harm to affected parties. For example, the Commission granted waivers of newly adopted Maritime Radio Service Rules, and eventually extended their effective date, to avoid economic hardship for manufacturers who had trouble meeting the date because of design, production and marketing problems.<sup>11</sup> Similarly, the Commission granted a waiver when implementation of its requirement that Message Unit Credit be calculated on a

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<sup>11</sup> In the Matter of Waiver of § 80.80(a)(4) of the Maritime Rules, 2 FCC Rcd. 2925 (1987). See also In the Matter of Notification of Broadcast Auxiliary STL/ICR Transmitters, 5 FCC Rcd 738 (1990) (Granting waiver of effective date of the equipment notification requirement of Section 74.550 of the Commission's rules to allow additional time for conversion to new equipment).

statewide basis when a LEC demonstrated that implementation "would be time-consuming and costly and would result in the increased burden of developing and filing a substantial number of new rates."<sup>12</sup> The tasks required of billing entities for full compliance with the Commission's pay-per-call rules are equally burdensome.<sup>13</sup>

Moreover, grant of this waiver petition would not undermine the interests served by the Commission's regulations. The specific regulations at issue are part of a detailed and all-encompassing regulatory scheme implemented by the Commission and the FTC to protect the pay-per-call customers. The vast majority of these regulatory protections will be in place by November 1, 1993. Many of these protections were enacted by AT&T long before the enactment of TDDRA.<sup>14</sup> A delay in implementation of the few regulations in question for the limited extension requested will not leave consumers unprotected.<sup>15</sup>

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<sup>12</sup> See In the Matter of BellSouth Telephone Companies, Petition for Waiver of Section 69.107(f)-(h) of the Commission's Rules, 2 FCC Rcd 4581 (1987).

<sup>13</sup> The steps taken by AT&T to comply with the Commission's rules are outlined in Attachment A.

<sup>14</sup> The Commission's regulations are largely consistent with the standards AT&T already requires as a condition of providing its Premium Billing services to IPs.

<sup>15</sup> For example, the fact that customers' bill do not segregate pay-per-call charges does not prevent customers from identifying these charges and from initiating billing inquiries. Customers can easily

On the other hand, denial of this waiver will result in the imposition of substantial hardships on pay-per-call customers and information providers ("IPs"). Section 64.1503 of the Commission's rules requires AT&T to terminate all "[p]rograms not in compliance" with TDDRA or the implementing FCC and FTC rules. The Commission has made clear that "within the context of this rule, termination is not limited to a cessation of billing, but encompasses transmission of the pay-per-call program."<sup>16</sup> Therefore, if this Petition is not granted, AT&T must take drastic measures to comply with this termination rule which will be devastating to the pay-per-call industry.

AT&T could block customer access to all pay-per-call services billed by AT&T's internal billing systems and by those LECs identified herein, until such time as full

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identify these charges by the 900 prefix of the called number which is identified for each call. Furthermore, all AT&T customers are informed on each bill containing pay-per-call charges of the toll-free number to call if they have any questions or billing disputes concerning these charges. Therefore, lack of compliance with the regulations in question for the limited period requested by AT&T will not undermine the intent of TDDRA.

<sup>16</sup> See In the Matter of Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act, CC Docket No. 93-22, RM-7990, Report and Order, released August 13, 1993.

compliance is possible.<sup>17</sup> This would necessitate blocking access to the specific NPA-NXXs of these calls. In territories where NPA-NXXs are shared by multiple carriers, blocking a particular NPA-NXX would not only block access to calls billed by non-conforming LECs, it would block all pay-per-call services billed by all LECs sharing that NPA-NXX.<sup>18</sup> Moreover, because the billing systems used by AT&T to bill business customers nationwide will not be modified to allow compliance of the rules by November 1, 1993, AT&T would have to block access to pay-per-call services at virtually every NPA-NXX. This option would basically require AT&T to block access to the vast majority of the pay-per-call services for which it bills, directly or through the LECs.

AT&T, in the alternative, could withhold billing temporarily for those pay-per-call services that it bills directly or that are billed by the LECs identified herein.<sup>19</sup>

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<sup>17</sup> If the Commission does not grant waiver of the rules as requested above and AT&T is required to block these calls, AT&T requests a three-month waiver of the termination rule (47 C.F.R. § 64.1503) to allow AT&T the time necessary to identify all the NPA-NXXs assigned to these programs and implement the necessary network changes (i.e., software changes at the respective 4ESS/5ESS switches) to block transmission of these calls.

<sup>18</sup> For example, ICOs often share NPA-NXXs with other carriers. Blocking access to pay-per-call services billed by these ICOs would necessitate blocking access to pay-per-call services billed by multiple, complying LECs.

<sup>19</sup> The time by which AT&T could delay billing would, of course, be subject to various state regulations governing billing delays.



However, substantial billing delays would result in monumental customer confusion and frustration for customers of pay-per-call services, as well as an administrative nightmare for IPs and billing carriers. It would also create severe financial difficulties for IPs because delayed billing will result in increased rates of uncollectible revenue because customers are less likely to pay charges when billing is delayed. IPs must provide accurate and timely billing to their customers in order to maintain viable business relationships.

Either option would severely injure the pay-per-call industry. IPs would suffer extreme financial injury which would severely jeopardize their ability to continue providing pay-per-call services. Confidence in this relatively young industry would be diminished and confusion would ensue if customers could no longer access current pay-per-call programs or received delayed billing. This disruption in pay-per-call programming would be in direct conflict with one of the stated intents of TDDRA which was to "protect the development of the pay-per-call industry."

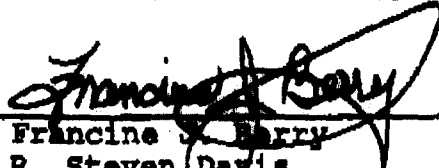
CONCLUSION

For the reasons stated above, AT&T requests the Commission to grant a limited, interim waiver of its pay-per-call rules as specified herein.

Respectfully Submitted,

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

By:

  
Francine J. Barry  
R. Steven Davis  
D. Stagnaro-Green

Its Attorneys

Room 3244J1  
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October 20, 1993

AFFIDAVIT OF ANNE FARRINGTON

*District of Columbia*  
~~STATE OF NEW JERSEY~~ )  
    --- )   ss:  
~~COUNTY OF SOMERSET~~ )

ANNE FARRINGTON, being duly sworn, deposes and says:

1. I am District Manager, Billing Management for Business Applications and Information Services, including AT&T MultiQuest® Services. In that capacity, I am responsible for coordinating activities with the local exchange carriers ("LECs") and AT&T's internal billing systems to procure the necessary billing and collection services to enable AT&T to provide Premium Billing services to providers of pay-per-call programs.

2. I am the manager responsible for coordinating AT&T's efforts to ensure that AT&T's billing and collection efforts comply with the Telephone Disclosure and Dispute Resolution Act and the implementing regulations of the Federal Communication Commission and Federal Trade Commission.

3. I make this affidavit in support of AT&T's Petition for Limited Interim Waiver on a Expedited Basis of certain of the Commission's pay-per-call rules. I am fully familiar with the matters set forth herein and in AT&T's Petition.

4. AT&T began taking action to comply with the Commission's rules soon after the Notice of Proposed Rulemaking was released on March 10, 1993. AT&T formed special task force committees to read and interpret the document, understand implementation requirements, and review the impacts to the billing systems which are utilized by AT&T and the LECs to provide billing for pay-per-call programs. I, as well as members of my staff, participated in numerous conversations with the LECs and AT&T's own billing organizations to discuss interpretations and implementation of the proposed regulations.

5. Shortly after release of the Commission's final regulations, my staff prepared detailed specifications for the billing modifications necessary for implementation of the rules. On September 9th and 10th, 1993, my staff sent, via overnight mail, to the Regional Bell Operating Companies ("RBOCs") and the major, independent telephone companies Tier 1 ("ICOs") a Time and Cost request (Purchase Order Number 083-34-##-ZZ-M-EKB-1) which detailed the modifications required and requested information on estimated completion dates and LEC charges to AT&T. On September 8, 1993, Time and Cost requests were sent to the AT&T internal distribution center to be disseminated to the approximately 1,400 small Tiers 2 and 3 ICOs.

6. On September 23, 1993, another request for Time and Cost (Purchase Order Number 083-34-##-ZZ-M-EKB-1) was sent to the Tier 1 ICOs who perform the inquiry function on

behalf of AT&T for implementation of the new requirements as they relate to resolution of billing disputes initiated by customers. On September 28, 1993, the same Time and Cost request (Purchase Order Number 093-60) was sent to the 1,400 Tiers 2 and 3 ICOs who also perform the inquiry function on behalf of AT&T.

7. Contractually, the LECs are obligated to respond to these Time and Cost requests within twenty to thirty business days. During the entire period between distribution of the requests and the actual responses, frequent telephone calls were held with all of the RBOCs, most of the Tier 1 ICOs, and some of the Tier 2 and Tier 3 ICOs to discuss the often varying interpretations of the rule (such as the wording of annual disclosures, necessary changes to the monthly bill, time frames, etc). Once mutual understandings of the new requirements imposed by the regulations were reached, the necessary software development, system coding, and process changes were begun.

8. At no time during AT&T's preliminary discussions with the LECs prior to the release of the Commission's rules was AT&T made aware that there was a possibility that the LECs would require more time for implementation than the Commission's proposed effective date. It was only after the final rules were released and interpreted that certain LECs informed AT&T that they could not meet the effective date for compliance with some of the new regulations.

9. Managers in the Billing Carrier groups for certain LECs have informed AT&T that they cannot modify their billing systems to allow compliance with the Commission's rules by November 1, 1993. Specifically, Cincinnati Bell Telephone Company, Nevada Bell, New England Telephone and Telegraph Company, New York Telephone and Telegraph Company, Pacific Bell, and U S WEST Communications, Inc. have all informed AT&T that they cannot comply with the requirement that pay-per-call charges be segregated on customers' bills from charges for telecommunications services by November 1, 1993.

10. Pacific Bell and Nevada Bell have informed AT&T that they cannot fully meet the requirement for distribution of an annual disclosure statement nor the monthly billing information and format changes.

11. ALLTEL, GTE and its telephone operating companies (including the Contel Telephone Operating Companies), and Lincoln Telephone Company have informed AT&T that, in addition to being unable to segregate pay-per-call charges, they are unable to implement the billing changes necessary for full compliance with the Commission's disclosure regulation (47 C.F.R. § 64.1509) and its billing and collection regulation (47 C.F.R. § 1510).

12. The vast majority of the Tier 2 and Tier 3 ICOs have not yet contacted AT&T with confirmation that they will be able to satisfy the billing modifications that AT&T has requested pursuant to these regulations. The few Tier 2

and Tier 3 ICOs that have responded to AT&T billing modification requests have informed AT&T that they cannot comply in time.

13. In addition, although Rochester Telephone Company and New England Telephone Company have both verbally indicated to AT&T that they will be able to implement all necessary billing changes requested, AT&T has not yet seen the actual disclosure and information statements to be utilized by these LECs. Therefore, AT&T cannot be certain that these modifications will satisfy the Commission's regulations.

14. In addition to contracting with the LECs' for billing services, AT&T performs these billing and collection directly for many business customers and certain residential customers --- namely, those in West Virginia and those in New Jersey who subscribe to New Jersey Simple Savings Plan. In order for AT&T to be in full compliance with the Commission's regulations, AT&T needed to make extensive modifications to its own internal billing systems.

15. Members of my staff met on August 20, 31, September 1, September 10 and September 22, 1993 with AT&T Headquarters Business and Residence billing and inquiry process representatives to address system modifications as well as changes to AT&T's Methods and Procedures for the Inquiry Centers and MultiQuest Recourse Center. A draft implementation timeline was developed on September 2, 1993 which established critical dates for system and operational

changes. An initial Methods and Procedures review was held on September 15, 1993, with a follow-up meeting on September 30, 1993, to review all changes. From October 1st through October 15th, 1993, the Methods and Procedures were tested at various field work locations.

16. System Change Requests were issued for changes to the internal systems for bill rendition and bill review in connection with the segregation of 900 calls, consumer advisory statements, monthly bill statement changes, and inquiry process changes.

17. I have been informed by the respective managers within each AT&T billing organization involved with billing pay-per-call programs that they are unable to meet the implementation timelines to allow full compliance with Sections 64.1510(a)(2)(i)(ii) and 64.1510(b) of the Commission's rules.

18. I am informed by managers of AT&T's billing systems that due to the complexity of changes needed to be implemented and the short time frames involved, sufficient development and testing can not be completed in time to ensure that the billing modifications work and that they do not jeopardize the accuracy, quality and actual rendition of bills for the other services billed by these systems.

19. My staff and I are continuing to work with AT&T's internal billing organizations and the LECs to expedite all necessary changes to implement the Commission's rules.



  
ANNE FARRINGTON

Sworn and subscribed to  
before me this 26<sup>th</sup> day  
of October, 1993

 / Linda L. Mangum  
Notary Public

My Commission Expires May 31, 1998

CERTIFICATE OF SERVICE

I, Helen Dalba, hereby certify that a true copy of the foregoing "Petition for Limited Interim Waiver on an Expedited Basis" was served this 19th day of October 1993 by first-class mail postage prepaid, upon the parties on the attached service list:

  
Helen Dalba

\*Designates service by hand